IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO : 25094 of 2000

Between:

S. Ravindra Proprietor of Ravindra Mills,
Ayyakannu Street, Palamaner - 517 408.

..... PETITIONER

AND

The Deputy Commercial Tax Officer,
Palamaner - 517 408, Chittoor District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a Writ of Mandamus or any other appropriate Writ or Order or direction declaring the action of the Respondent in collecting advance tax on transport of groundnut seed as illegal, arbitrary and violation of Article 265 of the Constitution of India and the APGST Act and consequently restrain the Respondent from collecting advance tax from the Petitioner on the consignment of groundnut seed and direct the Respondnet to not to collect advance tax and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.M.V.K.VISWANADHAM

Counsel for the Respondent No.: SPL GP FOR TAXES

The Court made the following :

O r d e r: (Per BRSR, J)

The subject matter that arises for consideration in this writ petition is similar to that of the one which we have disposed of just now in W.P.No.2487- of 2000. This writ petition is also disposed of following the Judgment reported in ***Ramanadh Poultry Farms V. Assistant Commercial Tax Officer***.

In the result, we hold that the levy and collection of the tax by the respondents at the check-post is illegal and void. That so far as the tax already collected, it shall be open to the petitioner to file an appropriate application for refund of the same which shall be considered as expeditiously as possible. However, it shall be open to the respondents-department to make the adjustment of tax refundable against the taxes if any due from the petitioners.

The writ petition is accordingly allowed to the extent indicated above. No costs.

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B.Sudershan Reddy, J.

8th June, 2005

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Ramesh Ranganathan, J.

grr